



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 95

**An Act to promote equity in access
to subsidized educational childcare
services provided by permit holders**

Introduction

**Introduced by
Madam Suzanne Roy
Minister of Families**

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EXPLANATORY NOTES

The purpose of this bill is to promote equity in access to subsidized educational childcare services provided by childcare centre and day care centre permit holders.

To that end, the bill amends the Educational Childcare Act to specify that the purpose of that Act is, in particular, to foster the development of a supply of services that contributes to social diversity. The bill allows the Minister of Families to suspend, revoke or refuse to renew a permit for a childcare centre or day care centre providing subsidized childcare that provides childcare in such a manner as to circumvent the provisions relating to access to educational childcare services. It allows the Minister, on the same grounds, to cancel, reduce or suspend a subsidy granted to the holder of such a permit. In addition, the bill provides that subsidized educational childcare providers must ensure that the objective of their educational materials is not to teach a specific religious belief, dogma or practice.

The bill withdraws the provisions concerning the establishment of an admission policy by each permit holder delivering subsidized childcare and the provisions allowing such a holder to determine any criterion to be applied in order to give priority to the admission of a child to the holder's facility. In place of those provisions, the bill establishes the admission priorities that such a holder may choose to apply in their facility, in particular with regard to children with special needs or children who are covered by an agreement entered into by a permit holder under certain circumstances and on certain conditions. The bill limits the number of children who can be newly admitted on the basis of those admission priorities and allows the Minister to exempt a permit holder from applying rules established with regard to that limit in certain cases. The bill also allows the admission of children on a priority basis when two permit holders delivering subsidized childcare choose to enter into an agreement for the purpose of complementing each other's service offers.

The bill empowers the Government to determine, by regulation, the conditions according to which a permit holder delivering subsidized childcare may admit children on the basis of the admission priorities established and complement those priorities to facilitate the organization of services. The bill also empowers the Government to determine, by regulation, the nature and value of the consideration

that must be required under an agreement to give priority to the admission of children to the facility of a permit holder delivering subsidized childcare and to prescribe a mechanism for reviewing the assessment of such a consideration.

The bill makes amendments to the Access to Educational Childcare Services Regulation, including as concerns the keeping of documents by permit holders delivering subsidized childcare and the publication of information in the single window for access to educational childcare services. In addition, the bill confirms the Minister's role as the administrator of the single window.

The bill allows the Minister to entrust a home educational childcare coordinating office with any responsibility assigned to the Minister regarding the assessment and improvement of the educational quality of childcare.

Lastly, the bill prescribes fines and administrative penalties and contains transitional provisions relating to existing agreements to give priority to the admission of children to the facility of the permit holder delivering subsidized childcare, as well as to the possibility for such a holder to become a permit holder delivering non-subsidized childcare on certain conditions.

LEGISLATION AMENDED BY THIS BILL:

- Educational Childcare Act (chapter S-4.1.1).

REGULATION AMENDED BY THIS BILL:

- Access to Educational Childcare Services Regulation (O.C. 863-2024, 22 May 2024).

Bill 95

AN ACT TO PROMOTE EQUITY IN ACCESS TO SUBSIDIZED EDUCATIONAL CHILDCARE SERVICES PROVIDED BY PERMIT HOLDERS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

EDUCATIONAL CHILDCARE ACT

1. Section 1 of the Educational Childcare Act (chapter S-4.1.1) is amended by inserting “, that contributes to social diversity” after “sustainable” in the second paragraph.

2. Section 5.1 of the Act, amended by section 5 of chapter 9 of the statutes of 2022, is again amended by replacing “within 60 days after they are obtained, and the administrator of the single window for access to educational childcare services does the same on the single window’s website” in the fifth paragraph by “, as well as on the website of the single window for access to educational childcare services, within 60 days after they are obtained”.

3. The Act is amended by inserting the following section after section 5.1:

“5.1.1. The Minister may entrust all or part of any responsibility assigned to the Minister under section 5.1 to a home educational childcare coordinating office.”

4. Section 13.1 of the Act, enacted by section 16 of chapter 9 of the statutes of 2022, is amended by striking out “for childcare centres or day care centres delivering subsidized childcare”.

5. Section 28 of the Act is amended by adding the following subparagraph at the end of the first paragraph:

“(11) the permit holder provides subsidized childcare services in such a manner as to circumvent the provisions of Chapter IV.1, in particular by refusing to admit children in accordance with the social diversity objective referred to in the first paragraph of section 59.4, or offers such services in such a manner as to circumvent those provisions.”

6. Section 42 of the Act is amended by adding the following paragraph before paragraph 1:

“(0.1) to carry out any responsibility entrusted to it by the Minister under section 5.1.1;”.

7. Section 59.1 of the Act, replaced by section 35 of chapter 9 of the statutes of 2022, is amended

(1) by replacing “designates a person or body to establish and administer” by “establishes and administers”;

(2) by striking out the second sentence.

8. Section 59.3 of the Act, enacted by section 35 of chapter 9 of the statutes of 2022, is amended by inserting “59.7 to 59.7.2,” after “59.6,”.

9. Section 59.4 of the Act, enacted by section 35 of chapter 9 of the statutes of 2022, is amended

(1) by replacing “, while complying with admission criteria” in the first paragraph by “and social diversity, while complying with admission requirements, criteria and priorities”;

(2) by replacing “the third paragraph” in the second paragraph by “this chapter”;

(3) by replacing the second sentence of the third paragraph by the following sentences: “The Government also determines, by regulation, the requirements and criteria governing the admission of children by an educational childcare provider or category of educational childcare providers. In addition, the Government determines, by regulation, the conditions and terms according to which a permit holder delivering subsidized childcare may admit children on the basis of the admission priorities set out in section 59.7, and may complement those priorities in order to facilitate the organization of services in keeping with this Act.”;

(4) by striking out “or the administrator of the single window” in the fourth paragraph.

10. Section 59.7 of the Act, enacted by section 35 of chapter 9 of the statutes of 2022, is replaced by the following sections:

“59.7. A permit holder delivering subsidized childcare may, on the conditions and according to the terms determined by regulation, give admission priority to children whose situation corresponds to one of the following situations:

(1) children with special needs;

(2) children living in a precarious socio-economic situation, as defined by regulation;

(3) children one of whose parents is registered in an educational institution in order to complete a program of study or a training program leading to a diploma, certificate or other attestation of studies issued under an Act applicable in Québec, or one of whose parents is registered for the same purpose in a given educational institution with which the permit holder has entered into a written agreement to give priority to the admission of such children to the permit holder's facility in exchange for consideration;

(4) children one of whose parents is employed by a given employer, other than an educational childcare provider, with which the permit holder has entered into a written agreement to give priority to the admission of such children to the permit holder's facility in exchange for consideration;

(5) children one of whose parents resides in the territory of a local municipality with which the permit holder has entered into a written agreement to give priority to the admission of such children to the permit holder's facility in exchange for consideration; or

(6) Aboriginal children or children one of whose parents is Aboriginal.

The admission priority referred to in subparagraph 1 of the first paragraph requires, in particular, the intervention of a health professional. In addition, if the permit holder so chooses, admission priority may be limited to children referred by an organization that acts in such a way as to anticipate the measures that could be required to facilitate the integration of such children into a facility of a permit holder, or to children with a specific disability.

The admission priority referred to in subparagraph 6 of the first paragraph requires the permit holder to have previously confirmed to the Minister that the permit holder plans to admit such children in a proportion that is consistent with consideration of their particular characteristics.

“59.7.1. The number of children newly admitted during a fiscal year within the meaning of section 60 on the basis of any of the situations referred to in section 59.7 must not exceed half of the total number of children admitted by a permit holder delivering subsidized childcare during that period. For the purposes of that calculation, a child is considered as having been admitted regardless of the duration or period of childcare for which the child is admitted.

For the purposes of the calculation provided for in the first paragraph, the Minister may, at the request of a permit holder, exempt the permit holder from considering the children who have been given priority in the following cases:

(1) children referred to in subparagraph 1 of the first paragraph of section 59.7 for whom the Minister considers that the permit holder has particular resources;

(2) children referred to in subparagraph 4 of the first paragraph of section 59.7 and where the Minister considers that the facility where childcare is provided cannot, for safety reasons, be accessed by a parent whose child's situation does not correspond to the situation referred to in that subparagraph; and

(3) children referred to in subparagraph 6 of the first paragraph of section 59.7.

An exemption granted under the second paragraph applies from the date and for the period indicated by the Minister.

At the Minister's request, the permit holder must provide the information and documents required for the assessment of the permit holder's application or for its renewal.

“59.7.2. Two permit holders delivering subsidized childcare may enter into a written agreement so that the children admitted to a facility of one of the holders may, on the conditions and according to the terms determined by regulation, be admitted on a priority basis to a facility of the other permit holder for the purpose of complementing each other's service offers, particularly with regard to the children's age classes.

Such an agreement may, in the same manner and for the same purpose, allow the admission on a priority basis of a child to the facility of one of those permit holders if another child residing at the same address is admitted to a facility of the other permit holder.

Where one person holds more than one day care centre permit, the person may, instead of entering into an agreement in accordance with the first or second paragraph, make a written resolution to the same effect as such an agreement, on the conditions and according to the terms determined by regulation.”

11. Section 59.9 of the Act, enacted by section 35 of chapter 9 of the statutes of 2022, is amended by replacing “the single window administrator to obtain the referral of children from the administrator” in the first paragraph by “the Minister to obtain the referral of children registered with the single window”.

12. Section 59.10 of the Act, enacted by section 35 of chapter 9 of the statutes of 2022, is amended by replacing “the single window administrator” by “the Minister”.

13. Section 59.12 of the Act, enacted by section 35 of chapter 9 of the statutes of 2022, is amended by replacing “the single window administrator” by “the Minister”.

14. Section 90.1 of the Act is amended by inserting “, materials” after “activities” in subparagraph 2 of the first paragraph.

15. Section 97 of the Act is amended by adding the following subparagraph at the end of the first paragraph:

“(10) provides subsidized childcare services in a facility in such a manner as to circumvent the provisions of Chapter IV.1, in particular by refusing to admit children in accordance with the social diversity objective referred to in the first paragraph of section 59.4, or offers such services in such a manner as to circumvent those provisions.”

16. Section 101.3 of the Act, amended by section 49 of chapter 9 of the statutes of 2022 and by section 22 of chapter 6 of the statutes of 2024, is again amended by inserting “, 59.7 to 59.7.2” after “5.2” in the first paragraph.

17. Section 106 of the Act, amended by section 58 of chapter 9 of the statutes of 2022 and by section 28 of chapter 6 of the statutes of 2024, is again amended, in the first paragraph,

(1) by replacing “designated” in subparagraph 14 by “established”;

(2) by replacing “, criteria and priorities” in subparagraph 14.0.2 by “and criteria”;

(3) by replacing subparagraphs 14.0.4 to 14.0.6 by the following subparagraphs:

“(14.0.4) determine the information and documents that must be provided to the Minister by the educational childcare providers or the parents, in particular with regard to children’s admission, exclusion or attendance or to the cessation of their attendance, and prescribe which information and documents must be published by the Minister in the single window for access to educational childcare services;

“(14.0.5) determine the terms and conditions according to which a permit holder delivering subsidized childcare may admit children on the basis of the admission priorities set out in section 59.7 and complement those priorities to facilitate the organization of services in keeping with this Act;

“(14.0.6) prescribe the terms and conditions according to which children admitted to a facility may be admitted on a priority basis to another facility pursuant to an agreement or resolution under section 59.7.2;

“(14.0.7) define the expression “children living in a precarious socio-economic situation” for the purposes of subparagraph 2 of the first paragraph of section 59.7;

“(14.0.8) determine the nature and value of the consideration that must be required in exchange for assigning admission priority to children to fill subsidized childcare spaces under any agreement referred to in subparagraph 3, 4 or 5 of the first paragraph of section 59.7, including any agreement in effect on the date of coming into force of the provisions of a regulation made under this subparagraph;

“(14.0.9) prescribe a mechanism for assessing the value of any consideration required in exchange for assigning admission priority to children to fill subsidized childcare spaces under any agreement referred to in paragraph 14.0.8 or a method for calculating that consideration; and

“(14.0.10) prescribe a mechanism for reviewing the assessment of any consideration that is referred to in paragraph 14.0.9 and conducted in accordance with that paragraph;”.

18. The Act is amended by inserting the following section after section 115.7:

“115.8. A permit holder delivering subsidized childcare that gives priority to the admission of a child to the permit holder’s facility in contravention of a provision of sections 59.7 to 59.7.2 is liable to a fine of \$500 to \$5,000.”

ACCESS TO EDUCATIONAL CHILDCARE SERVICES REGULATION

19. Section 2 of the Access to Educational Childcare Services Regulation, enacted by Order in Council 863-2024 dated 22 May 2024, is amended by replacing “to the administrator of the single window under this Regulation must be communicated using the online services” by “to the Minister under this Regulation must be communicated using the online services of the single window”.

20. Section 4 of the Regulation is amended, in the first paragraph,

(1) by replacing “The administrator” in the introductory clause by “The Minister”;

(2) by replacing “le ministre” in subparagraphs 1 and 2 by “il” in the French text.

21. Section 6 of the Regulation is amended

(1) by inserting “, for each of the provider’s facilities if applicable,” after “window” in the first paragraph;

(2) by replacing “the administrator” in the second paragraph by “the Minister”.

22. Section 13 of the Regulation is amended by replacing the fourth paragraph by the following paragraph:

“If the permit holder has informed the Minister, under the first paragraph of section 23, of their choice to give priority to the admission of children to that facility for any situation referred to in section 59.7 of the Act, the parent must indicate in the single window whether or not their child’s situation corresponds to the situation that gives access to admission priority. If so, the parent is informed that, at the time the contact information is sent to a permit holder pursuant to section 31, the parent will have to provide any documents, information or attestations the permit holder requests to establish that the child’s situation, at that time, corresponds to the situation that allows the child to be assigned the priority childcare space, and that failure to provide what is requested will prevent the child from being assigned that childcare space.”

23. Chapter II of the Regulation is amended by replacing the portion before section 25 by the following:

“CHAPTER II

“ADMISSION OF CHILDREN BY A PERMIT HOLDER DELIVERING SUBSIDIZED CHILDCARE

“DIVISION I

“GENERAL PROVISIONS RESPECTING THE ADMISSION OF CHILDREN

“22. A permit holder delivering subsidized childcare may admit a child only on the conditions prescribed in this chapter.

“23. A permit holder delivering subsidized childcare must indicate to the Minister any situation referred to in the first paragraph of section 59.7 of the Act on the basis of which a child may be assigned admission priority to fill a childcare space in a given facility. Where a permit holder has entered into an agreement referred to in subparagraph 3, 4 or 5 of the first paragraph of section 59.7 of the Act, the permit holder must also indicate to the Minister all the details of the consideration required under the agreement in exchange for assigning admission priority to children to fill subsidized childcare spaces in a given facility, as well as the number of children to whom the permit holder intends to assign such admission priority while complying with the maximum number of admissions established under section 59.7.1 of the Act.

Such a permit holder must also indicate to the Minister that the permit holder is a party to an agreement that binds the permit holder to another permit holder or that the permit holder has made a resolution, in accordance with section 59.7.2 of the Act.

The Minister publishes in the single window the information indicated by the permit holder pursuant to the first and second paragraphs.

If a permit holder gives priority to children with special needs requiring adaptive measures to facilitate their integration, the permit holder may, on request, use the special method of child identification provided for in section 35 for children meeting that criterion. In that case, sections 33 and 34 do not apply.

“24. A permit holder delivering subsidized childcare must keep a copy of any agreement referred to in subparagraphs 3 to 5 of the first paragraph of section 59.7, as well as of any agreement or resolution referred to in section 59.7.2 of the Act, for as long as it produces effects and subsequently for a period of six years.”

24. Sections 26 and 27 of the Regulation are repealed.

25. Section 29 of the Regulation is amended,

(1) in the first paragraph,

(a) by inserting “to a given facility” after “child” in the introductory clause;

(b) by replacing subparagraph 3 by the following subparagraph:

“(3) whether or not the childcare space must be filled by a child meeting the conditions referred to in the first or second paragraph of section 23 for filling a childcare space and, if applicable, the situation that gives access to admission priority, which the permit holder has indicated to the Minister under either of those paragraphs, that the permit holder wishes to correspond to the situation of the child to be admitted;”;

(2) by inserting “to the facility referred to in the first paragraph” after “been admitted” in the second paragraph;

(3) by inserting “, in the facility referred to in the first paragraph,” after “available childcare space” in the third paragraph;

(4) by replacing both occurrences of “the administrator” in the fourth paragraph by “the Minister”.

26. Section 31 of the Regulation is amended

(1) by replacing the first paragraph by the following paragraphs:

“The Minister sends the permit holder the contact information of the parent of the child identified under section 30, the name of the child and the child’s childcare needs specified by the parent.

If applicable, the Minister also sends the permit holder any known information to the effect that another child residing at the same address is registered on the same waiting list, on another waiting list of the same childcare centre or on

the waiting list of another permit holder with whom the permit holder has entered into an agreement to that effect referred to in the second paragraph of section 59.7.2 of the Act.”;

(2) by replacing “the administrator” in the second paragraph by “the Minister”.

27. Section 32 of the Regulation is amended

(1) by replacing “the administrator” in the first paragraph by “the Minister”;

(2) by inserting “, for the purposes of this section and section 59.7 of the Act,” after “socio-economic situation” in the second paragraph.

28. Section 34 of the Regulation is amended by replacing “the administrator” and “with the same” in the first paragraph by “the Minister” and “in the same facility of that”, respectively.

29. Section 35 of the Regulation is amended,

(1) in the first paragraph,

(a) by replacing “pursuant to the second paragraph of section 26” in subparagraph 1 by “in the situation referred to in the fourth paragraph of section 23”;

(b) by replacing “that a criterion to give priority to children with special needs must be applied” in subparagraph 2 by “that admission priority for children with special needs must be applied”;

(2) by replacing “with the permit holder that must be filled by a child who meets the same criterion indicated” in the third paragraph by “in the same facility of the same permit holder that must be filled by a child whose situation corresponds to the one indicated”;

(3) by replacing all occurrences of “the administrator” by “the Minister”.

30. Section 37 of the Regulation is amended by replacing the first paragraph by the following paragraph:

“Where the Minister has sent a parent’s contact information to a permit holder pursuant to section 31, the permit holder communicates with the parent using the means of communication described in the second paragraph of section 10 to propose admitting the child. The permit holder must document all steps taken to reach the parent and keep the documents for a period of 6 years after having taken those steps.”

31. Section 43 of the Regulation is amended

(1) by replacing all occurrences of “the administrator” in the first paragraph by “the Minister”;

(2) by adding the following sentence at the end of the third paragraph: “In addition, the permit holder must keep a copy of that decision and proof of its notification for a period of 6 years after the notification.”

32. Section 46 of the Regulation is amended by replacing “24” in the first paragraph by “23”.

33. The Regulation is amended by replacing both occurrences of “the first paragraph of section 26, sections 27” in sections 54 and 55 by “the first and second paragraphs of section 23, sections 24”.

34. The schedule to the Regulation is amended

(1) in section 1,

(a) by replacing “the administrator” in the portion before the table by “the Minister”;

(b) by replacing “as another child residing at the same address who is admitted to the facility” in the table by “of a permit holder as another child residing at the same address who is admitted to the facility, or in a facility of a childcare centre having admitted, to another of the holder’s facilities, another child residing at the same address”;

(2) by replacing “the administrator” in the second paragraph of section 2 by “the Minister”.

35. The Regulation is amended by replacing all occurrences of “administrator” by “Minister”, with the necessary modifications.

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

36. No agreement entered into before the date of coming into force of section 10 of this Act between a permit holder delivering subsidized childcare and a third person, concerning the assigning of admission priority to fill subsidized childcare spaces to children who have been referred, proposed or designated by, or are otherwise related to, the third person, directly or through a parent, may operate

(1) to give priority to the admission, to the permit holder’s facility, of children who are in situations other than those referred to in section 59.7 or section 59.7.2 of the Educational Childcare Act (chapter S-4.1.1), enacted by section 10 of this Act, or according to terms and conditions that are different

from those established under the Educational Childcare Act and under the Access to Educational Childcare Services Regulation, enacted by Order in Council 863-2024 dated 22 May 2024, as amended by this Act; or

(2) to give admission priority to a higher number of children than that provided for by section 59.7.1 of the Educational Childcare Act, enacted by section 10 of this Act.

Any provision of such an agreement that is contrary to the first paragraph is deemed to be null to the extent of its incompatibility with this section from the date of coming into force of section 10 of this Act.

Where a permit holder delivering subsidized childcare is a party to more than one agreement referred to in the first paragraph, those agreements must not, individually or in combination, have the effect of giving admission priority to children or a number of children in contravention of the provisions of that paragraph. In addition, if the combined effect of provisions of the agreements is contrary to this section, those provisions are deemed to be null to the extent of their incompatibility with this section and, as applicable, in proportion to the number of children given admission priority by each of the agreements.

However, it is understood that no child admitted by a permit holder before that date may be excluded because the child's admission is incompatible with this section.

37. A holder of a permit for a childcare centre or day care centre delivering subsidized childcare may become a holder of a permit for a day care centre delivering non-subsidized childcare on the following conditions:

(1) the permit holder applies to the Minister of Families, Seniors and the Status of Women in writing for that purpose, in the manner specified by that minister, not later than the date that is one year after the date of coming into force of section 10 of this Act; and

(2) the permit holder shows, to the satisfaction of the Minister, that the provisions of sections 59.7 and 59.7.1 of the Educational Childcare Act (chapter S-4.1.1), enacted by section 10 of this Act, cause the permit holder significant constraints as concerns the permit holder's mode of operation.

A holder of a permit for a childcare centre referred to in the first paragraph that has more than one facility becomes a holder of a permit for a day care centre delivering non-subsidized childcare for each of those facilities.

38. The subsidy granted to a holder of a permit for a childcare centre or day care centre that becomes a holder of a permit for a day care centre delivering non-subsidized childcare following an application made in accordance with section 37 of this Act ends on the date on which the holder's application is accepted by the Minister. The holder's permit is replaced or modified accordingly on that same date.

Such a holder must produce the report referred to in section 62 of the Educational Childcare Act (chapter S-4.1.1), with the necessary modifications, as if the holder were ceasing operations on that date.

Section 101 of that Act applies, with the necessary modifications, to a holder of a permit for a childcare centre that has become a holder of a permit for a day care centre delivering non-subsidized childcare under section 37 of this Act if the permit holder ceases operations in the five years following the date on which the holder's application was accepted by the Minister in accordance with that section, as if the holder were a childcare centre permit holder.

39. The provisions of this Act come into force on the date or dates to be determined by the Government, except those of sections 3 and 6, which come into force on *(insert the date of assent to this Act)*.